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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,568	09/19/2003	Daniel B. Shore	16949	4586
37414	7590	09/14/2005	EXAMINER	
			GOODEN JR, BARRY J	
CNH AMERICA LLC INTELLECTUAL PROPERTY LAW DEPARTMENT PO BOX 1895, MS 641 NEW HOLLAND, PA 17557		ART UNIT		PAPER NUMBER
		3616		

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/664,568	SHORE, DANIEL B.	
	Examiner	Art Unit	
	Barry J. Gooden Jr.	3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 19 September 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 15-20 is/are withdrawn from consideration.
- 5) Claim(s) 1-3 and 8-10 is/are allowed.
- 6) Claim(s) 4-7 and 11-14 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 19 September 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-14, drawn to a suspension for a skid steer vehicle, classified in class 280, subclass 124.157.
- II. Claims 15-20, drawn to a method for controlling a suspension of a skid steer vehicle, classified in class 280, subclass 6.157.

The inventions are distinct, each from the other because of the following reasons:

Inventions drawn to a suspension for a skid steer vehicle and drawn to a method for controlling a suspension of a skid steer vehicle are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the process as claimed can be practiced with another materially different product; i.e. the process can be practiced by a product that does not include the details of the hydraulic valves as claimed.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. John Slater on 8/24/2005 a provisional election was made without traverse to prosecute the invention of a suspension for a skid

steer vehicle, claims 1-14. Affirmation of this election must be made by applicant in replying to this Office action. Claims 15-20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Specification

The disclosure is objected to because of the following informalities:

1. In paragraph 0068, line 4 states, "and accumulator 306 to keep cylinder 302 constant length;" however, as best understood, valve 318 is not capable of actuating valve 314, which controls the connection between the accumulator 306 and the cylinder 302. If this is correct please omit, "and accumulator 306 to keep cylinder 302 constant length and chassis 102 at a constant height," and replace with "and pump 304."
2. In paragraph 0072, fluid conduit 326 is coupled to and between valve 320 and valve 314.
3. In paragraph 00102, line 6 states, "these two pressures," the term "two" is used in multiple references and is therefore ambiguous. As best understood, the last "two" refers to the front and rear pressures, if this is correct, please replace "two" with "front and rear," as "two pressures" could also refer to the right rear and left rear pressures.
4. In paragraph 00105, line 8, linkage should be followed by the appropriate reference number; please insert the appropriate reference number following the term linkage.
5. In paragraph 00111, line 3, actuators should be followed by a reference number, please insert the appropriate reference number following the term actuator.

6. In paragraph 00113, line 3 states "operate actuators 310, 312;" however, as best understood, linkage 602 is not capable of actuating item 310. If this is correct, please omit 310.

Appropriate correction is required.

Claim Objections

Claim 1 is objected to because of the following informalities:

7. In regards to claim 1, paragraph 6, line 2 states, "and said accumulator to, said," suggest correction as follows, "and said accumulator, said."

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4-7 and 11-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regards to claims 4 and 11, as best understood, the specification indicates that if the first valve (314) has disconnected the cylinder (302) from the accumulator (306), and the third valve (318) is actuated to raise the suspension the third valve (318) is configured to connect the pump (304) to the cylinder (302). If the first valve (314) is connecting the cylinder (302) to the accumulator (306), and the third valve (318) is actuated to raise the suspension the third valve (318) is configured to connect the pump (304) to the cylinder (302) and the accumulator (306). If this assessment is correct,

please adjust the claim terminology to accurately reflect the situation. Currently the claim terminology suggests an automated process, "configured (1) to connect said pump to said cylinder when said first valve has disconnected said..." (Claim 4, Line 3).

In regards to claims 6 and 13, the claim language does not account for the situation where the first valve (314) has disconnected the cylinder (302) from the accumulator (306) and the third valve (318) has connected the pump (304) to the cylinder (302). The first valve (314) is only capable of effectively locking the pump (302) from the accumulator (306).

In regards to claims 5, 7, 12 and 14, the claims are dependent upon claims rejected under 35 USC 112.

Allowable Subject Matter

Claims 4-7 and 11-14 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chatterjea, US 2003/0015847 A1, discloses a ride control system having an equalizing valve. Martin, US Patent 5,538,266 discloses a suspension for a utility vehicle such as a grape harvester. Wallestad, US Patent 6,578,855 B2, discloses a suspension control system having a valve controlling the communication between a chamber of the cylinder and an accumulator. Stanfield, US 2003/0020252 A1, discloses a suspension control system with a load support member, a base member, a moveable

element attached to the member, and a locking circuit disposed between the moveable element and the accumulator.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barry J. Gooden Jr. whose telephone number is (571) 272-5135. The examiner can normally be reached on Monday-Friday 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on (571) 272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Barry J Gooden Jr.
Examiner
Art Unit 3616

BJG


ERIC CULBRETH
PRIMARY EXAMINER